

COMMUNICATIONS ASSISTANCE FOR LAW ENFORCEMENT ACT (CALEA) QUESTIONS AND ANSWERS

1. What happens on June 30, 2002?

On June 30, 2002, many current FCC-granted section 107 CALEA compliance extensions expire. The Commission expects that most carriers will be CALEA compliant by that date. "CALEA compliant" means that a carrier is compliant with CALEA section 103's capability requirements or compliant with the Telecommunications Industry Association's (TIA's) J-STD-025 Revision A document. This document is available online for a fee from TIA's website: www.tiaonline.org. In simple terms, "CALEA compliant" means that a carrier's CALEA facilities include **all** CALEA elements prescribed to date: the original J-Standard items; the six "punchlist" items; and (where applicable), packet items.

Those carriers that are not CALEA-compliant on June 30, 2002 and who do not have a FCC-granted extension will be subject to enforcement action by the U.S. Department of Justice (DOJ).

2. If I will not be CALEA-compliant by June 30, 2002, how may I obtain an additional section 107 extension from the FCC?

Carriers that will not be CALEA-compliant by June 30, 2002 **must apply** for an additional section 107(c) extension **before** June 30, 2002.

To apply for a further extension, carriers should follow the instructions contained in the *CALEA Public Notice* issued on September 28, 2001. This document is available online in pdf, Word, and text formats:

http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-01-2243A1.pdf

http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-01-2243A1.doc

http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-01-2243A1.txt

These instructions apply to **all** requests for CALEA section 107(c) extensions, including packet, "punch list" items, and any other aspect of CALEA capability compliance.

When applying for an additional extension, carriers are encouraged to participate in the FBI's Flexible Deployment Assistance Program, which is designed to assist carriers with complying with CALEA's requirements. In fact, when evaluating whether to grant a section 107 extension, the FCC is required to consult with the DOJ. Carriers should note that the DOJ/FBI has declared that it will only support section 107 extension requests where a carrier has enrolled in its Flexible Deployment Assistance program. Detailed instructions and contact information for this program, as well as additional information about current CALEA compliance requirements, may be obtained online from the FBI's CALEA Implementation Section (CIS):

<http://askcalea.net>

3. What if I just need an extension for “punch list” item compliance?

Just follow the same procedures for compliance described in the *CALEA September 28, 2001 Public Notice* listed above.

Some carriers may have already obtained some or all punch list items from their switching equipment manufacturers. These carriers will want to check to make sure that all six of the punch list items were included with the manufacturer’s CALEA-compliant software upgrade. (Most switch manufacturers included the full six punchlist items and added a “toggle” [on-off] feature so that any punch list item could be shut off by the carrier in the event that it was not included in CALEA compliance requirements. This past April, the FCC affirmed that carriers must obtain and utilize all six punch list items to fulfill CALEA compliance requirements. Carriers should check to see that they have received all six items and that all such items are toggled “on.”)

Carriers that are unsure of their punch list compliance status should consult the Commission’s *CALEA Order on Remand*, released on April 11, 2002. A copy of this document may be obtained online in pdf, Word, and text formats:

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-02-108A1.pdf

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-02-108A1.doc

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-02-108A1.txt

4. How do I obtain an additional extension for packet service compliance? `

Again, consult the FCC’s *CALEA September 28, 2001 Public Notice* listed above.

5. What should I do if I never had an extension or my extension is already expired, and I am still not in compliance with CALEA?

If your switching equipment was placed in service prior to January 1, 1995, you are already deemed compliant temporarily with CALEA’s capability requirements, pursuant to CALEA section 109(d). No additional filing is necessary. Carriers with pre-1/1/95 equipment should note that when “equipment, facility or service is replaced or significantly upgraded or otherwise undergoes major modifications,” it must become fully compliant with CALEA’s capability requirements. See CALEA section 109(d); 47 USC §1008(d).

If your switching equipment was placed in service after January 1, 1995, you must be CALEA-compliant by June 30, 2002, or obtain a section 107(c) extension from the FCC, as described above.

6. What should I do if I just cannot comply with CALEA’s requirements and I know that I won’t become CALEA-compliant even if I receive a section 107 extension of those requirements?

CALEA compliance is a legal obligation imposed on all carriers covered by the statute. To assist carriers with designing a schedule for becoming CALEA-compliant, the FBI has developed a carrier Flexible Deployment Assistance program in conjunction with its CALEA Implementation Section (CIS) office. The FCC encourages all carriers to consult with the FBI/CIS about program details. Detailed instructions and contact information for this program, as well as summary information about current CALEA compliance requirements, may be obtained online from the FBI/CIS:

<http://askcalea.net>

In some cases, carriers may validly claim that compliance with CALEA's capability standards is not reasonably achievable as defined in CALEA section 109. Such carriers may file petitions with the Commission under CALEA section 109(b). Section 109(b) petitions must be adequately supported and the FCC decides whether to grant the petition strictly in reference to criteria set out in section 109(b). Accordingly, carriers are encouraged to consult with competent legal and technical counsel before filing such a petition. Please note that a filing fee of \$5,000.00 is required to accompany all CALEA section 109(b) petitions filed with the FCC.

Please note also that grant of a CALEA section 109(b) petition **does not** constitute a "waiver" of CALEA requirements. Instead, a carrier is deemed CALEA compliant until its "equipment, facility or service is replaced or significantly upgraded or otherwise undergoes major modifications" (see CALEA section 109(d)). When that happens, the carrier is obligated under the law to select CALEA-compliant equipment to replace, modify or upgrade non-compliant equipment. The FCC may also specify in the CALEA section 109(b) order granting a carrier's petition the specific date when the replacement, upgrade or modification will occur and when CALEA compliance is required.

In other words, a carrier's obligation to comply with all CALEA requirements is only deferred by FCC grant of a section 109 (or section 107) petition. No qualifying carrier is exempt from CALEA.

7. Besides CALEA's capability requirements, are there any other CALEA compliance requirements that require filings with the FCC?

Yes. CALEA sections 105 and 301, 47 USC §§ 1004 and 229, respectively, require carriers to file System Security and Integrity (SSI) manuals with the FCC. These manuals must conform to FCC regulations 47 CFR §§ 2100-2106. The procedures contained in the SSI manuals instruct carrier personnel on how to effectuate lawful electronic surveillance. The regulations containing instructions on how to prepare the SSI manuals are available online:

http://www.access.gpo.gov/nara/cfr/waisidx_01/47cfr64_01.html